IFF-17

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Godinot et al.

Serial No.: 09/862,946   Art Unit: 3629

Filed: May 22, 2001   Examiner: J.P. Quellette

For: METHOD FOR THE ANALYSIS OF SENSORY PERCEPTION

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(Name of applicant, assignee, or Registered Representative)

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(Signature)
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December 16, 2003
_____
(Date of Signature)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<u>**APPEAL BRIEF**</u>

Dear Sir:

        In accordance with the provisions of 37 CFR §1.191, Appellant
filed a timely Notice of Appeal in the above application on October 30,
2003, from the Final Rejection made by the Examiner in the Office Action

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dated August 1, 2003. Three copies of the Appeal Brief are enclosed. Authorization to charge Deposit Account 12-1295 for the costs for filing this brief in the amount of $330.00, and any other fees required by this paper is hereby granted.

(1) Real Party in Interest

The real party in interest in the application in this appeal is Appellants' assignee: International Flavors & Fragrances Inc., a New York corporation.

(2) Related Appeals and Interferences

There are no related appeals, interferences or related applications currently pending.

(3) Status of the Claims

Claims 1-6 and 13-18 are the claims on appeal, a copy of which are attached hereto in the Appendix to this Brief. No claims stand allowed in this application.

(4) Status of Amendments

An Amendment After Final Rejection was filed on September 18, 2003. In the Advisory Action dated October 28, 2003, the Examiner noted that the Amendment After Final would not be entered. A Notice of Appeal was filed on October 30, 2003. The claims as presented are the same as presented in the Amendment filed on April 15, 2003.

(5) Summary of the Invention

The present invention is directed to a method for conducting taste and smell panel testing. The assignee of the present invention, International Flavors & Fragrances Inc., is the world's largest supplier of flavor and fragrance products. As a supplier of these materials, the assignee employs social scientists, such as physiologists and other consumer testing professionals, that conduct panel testing of

ingredients and products, to determine a panelist's preferences and analyze the results.

The invention is an improvement over the prior art in that instead of testing one parameter or attribute of a flavor or smell, the present invention provides for the simultaneous testing of the recited parameters. Not only are the recited parameters allowed to be tested simultaneously, but the method also provides visual feedback to the panelist to show the subject how altering one parameter effects the relative weighing of the other recited parameters. Appellants have discovered this provides better information and allows the panelists to see how increasing one attribute will effect the relative weighing of other attributes. Since the results are provided graphically, no mathematical computations are required by panelists which makes it easier for the panelists and eliminates possible mathematical errors. These mathematical errors can cause the validity of data to be questioned or in a worse case to be discarded due to incorrect data.

(6) Issues on Appeal

Whether the inventions of claims 1-6 and 13-18 are obvious under 35 U.S.C. 103(a) over Reading Scientific Services Ltd. ["RSSL"], as set forth in the Final Rejection dated August 1, 2003.

(7) Grouping of Claims

Appellants believe that all of their claims are patentable over the prior art. For purposes of this Appeal, claims 1-6 stand together, and claims 13-18 of the claims stand together for purposes of this appeal.

(8) Argument

Claims 1-6 and 13-18 stand rejected under 35 U.S.C. §103 as obvious over RSSL for the reasons set forth in the Final Rejection.

The RSSL disclosure fails to disclose or suggest the specific attributes used to score the taste attributes, and also fails to suggest that 4 to 6 attributes be used. This disclosure can not fairly be said to suggest fragranced products, as recited in claims 13-18, let alone the specific fragrance attributes set forth in the claims.

Appellants respectfully submit that the RSSL disclosure does not suggest having the panelist: 1) manipulate the various recited attributes, which are then simultaneously put into a single score that the panelist can visualize; and 2) then adjust the attributes as they see fit based upon the automatic feedback provided by the claimed invention. Instead the RSSL disclosure states that the products under test are then scored on open line intensity scales ...and the mean data is then put into spider diagrams which show the response [emphasis added, see second page third paragraph of the disclosure]. This clearly indicates that the panelist data is not graphically presented and is not modified. Further this disclosure can not fairly be said to provide a simultaneous response of the data to the panelist.

Instead, the RSSL disclosure teaches that the scores are averaged and then put into a graphical form. Clearly this is not simultaneous visual interpretation as set forth in the claimed invention. It does not suggest that the panelist be able to reconfigure the data based upon its presentation and the panelist's perception of the product. In fact the RSSL disclosure teaches away, since the supervisor of the panels are compiling the data and using the mean data to score the results.

Appellants respectfully submit that RSSL can not be modified as suggested by the Examiner with other disclosures to fairly suggest the simultaneous testing of multiple parameters, and the simultaneous comparison of their relative strength displayed relative to one another. Appellants also respectfully submit that the RSSL disclosure can not be

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fairly said to map and display the multiple parameters simultaneously and allow the panelist to further amend the display based upon the graphical depiction.

For the above reasons, Appellants respectfully request that the rejection of record be reversed and that all claims on appeal be allowed.

Respectfully submitted,

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Claims on Appeal (Claims 1-6 and 13-18):

1.   A method for visually presenting the taste attributes of sample comprising:

   (a)   providing a subject;

   (b)   providing the subject with a sensory perception scale for taste on a computing device containing a plurality of attributes selected from the group consisting of sweetness, saltiness, bitterness, sourness, mintiness, coolness, grittiness, burning, biting, tingling, bad after taste, and metallic; said sensory perception scale having variable positions;

   (c)   providing the subject with a test sample and requesting said subject to sample the test sample;

   (d)   asking the subject to rate from about 4 to about 6 attributes of the samples selected from the group consisting of from sweetness, saltiness, bitterness, sourness, mintiness, coolness, grittiness, burning, biting, tingling, bad after taste, and metallic; by manipulating the positions of the perception scale; and

   (e)   providing the position of the variable position scale to a computing means, said computing means providing a simultaneous visual interpretation on a screen of the attributes of the sample.

2.   The method of claim 1 wherein the visual interpretation of the attributes of the sample is provided as a pie chart.

3.   The method of claim 1 wherein the visual interpretation of the attributes of the sample is provided as a single bar chart.

4.   The method of claim 2 wherein the relative value of each attribute is provided by a unique color.

5.   The method of claim 3 wherein the relative value of each attribute is provided by a unique color.

6.   The method of claim 1 wherein the visual interpretation of the attributes of the sample is generated without having the subject perform any mathematical computation.

13.   A method for visually presenting the olfactory attributes of a sample comprising:
    (a)   providing a subject;
    (b)   providing the subject with a sensory perception scale for olfaction on a computing device containing a plurality of attributes selected from the group consisting of citrus, floral fruity, woody spicy leathery, herbaceous, musk, amber and oriental; said sensory perception scale having variable positions;
    (c)   providing the subject with a test sample and requesting said subject to sample the test sample;
    (d)   asking the subject to rate from about 4 to about 6 attributes of the sample's attributes selected from the group consisting of citrus, floral fruity, woody spicy leathery, herbaceous, musk, amber and oriental by manipulating the positions of the perception scale; and
    (e)   providing the position of the variable position scale to a computing means, said computing means providing a simultaneous visual interpretation on a screen of the attributes of the sample.

14.   The method of claim 13 wherein the visual interpretation of the attributes of the sample is provided as a pie chart.

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15.   The method of claim 13 wherein the visual interpretation of the attributes of the sample is provided as a single bar chart.

16.   The method of claim 14 wherein the relative value of each attribute is provided by a unique color.

17.   The method of claim 15 wherein the relative value of each attribute is provided by a unique color.

18.   The method of claim 13 wherein the visual interpretation of the attributes of the sample is generated without having the subject perform any mathematical computation.